

September 18, 2017

Mr. D. Lee Forsgren
Deputy Assistant Administrator
Office of Water, Environmental Protection Agency
1200 Pennsylvania Avenue, NW, Room 3219 WJCE
Washington, D.C. 20460

Re: Yukon River Basin Aquatic Resource of National Interest (ARNI) Designation

Mr. Forsgren:

Thank you so much for your offer of assistance regarding a recent action taken by the US Environmental Protection Agency (EPA) that could cause significant problems for Alaska's effort to develop North Slope natural gas resources, and possibly for other projects within our state.

On August 29, 2017, the EPA sent a letter to the US Army Corps of Engineers (ACOE) designating the entire Yukon River basin as an Aquatic Resource of National Interest (ARNI). This letter was submitted during the comment period for Alaska Gasline Development Corporation's (AGDC) ASAP Project Draft Supplemental Environmental Impact Statement (DSEIS), and formally initiates an elevation process between the EPA and the ACOE on the ASAP 404 permit process.

This elevation process is set out in Section 404(q) of the Clean Water Act, and implemented through a 1992 MOU between the EPA and the ACOE. EPA's August 29 letter is the first step, and notifies the ACOE that the project "may result in substantial and unacceptable impacts to aquatic resources of national interest." If the issues are not resolved, this must be followed up within 25 days with a letter, signed by EPA's Region 10 Administrator, determining if the project "will" have these impacts in order for the elevation process to proceed.

We have significant concerns with this process:

- ☐ The Yukon ARNI encompasses the entirety of the Yukon River watershed in the United States, approximately 200,000 square miles stretching from the US/Canada border to the east, to the end of the Yukon Delta at the Bering Sea. To put the size of the Yukon ARNI in perspective, the State of California is only 164,000 square miles. A map of the watershed is enclosed with this letter.
- ☐ There is no law, regulation or even guidance, including the MOU, that defines the term ARNI or the boundaries of an ARNI determination.
- ☐ While the ARNI is supposed to be a temporary designation, there is concern that once an ARNI has been designated, the designation could live on and be used by project opponents. The designation only causes confusion, and can be misinterpreted by special interests to oppose projects.
- ☐ The recent EPA letter acknowledges the ACOE call for comment is for a Draft Supplemental Environmental Impact Statement to a Final EIS EPA previously participated in. However, EPA's recent action effectively reverses its position on the ASAP project from its formal acceptance of the 2012 FEIS issued by the ACOE.

Alternative 1 for the DSEIS, which is supported by the State of Alaska, was formulated following a wetland evaluation process proposed by the ACOE. This process is designed to determine if a proposed activity will contribute to significant degradation of waters of the United States. Despite the detailed knowledge and experience ACOE has overseeing projects in Alaska, EPA appears to brush their knowledge aside and express support for Alternative 2. This alternative would require extensive segments of the proposed pipeline to be elevated using vertical support members despite sound, rational and technical analyses by AGDC that highlight that burial of the natural gas pipeline is the most safe and secure construction alternative. This alternative is contrary to input from local subsistence resource users, and the State of Alaska as a substantial owner of the proposed project right-of-way.

Importantly, this action by EPA appears contrary to the intent of President Trump's August 15, 2017 Presidential Executive Order on Establishing Discipline and Accountability in the Environmental Review and Permitting Process for Infrastructure, which calls for "coordinated, consistent, predictable, and timely" environmental reviews by federal agencies. The EPA action also is inconsistent with the position of Administrator Pruitt who has called for close collaboration with states and interest in developing natural resources to power and protect the world. The EPA has had adequate opportunity to evaluate the project (as it accepted the 2012 FEIS) and its actions now appear to call for an entirely new EIS. This is anything but "coordinated, consistent, predictable, and timely."

In addition, the State of Alaska is concerned that the ARNI decision will have broad-reaching impacts to all development activities in the Yukon River basin, including the proposed Alaska LNG gas pipeline, and any infrastructure projects, whether they be airports, schools, roads, or water and sewer systems requiring fill to be placed in wetlands. This could impact public safety, increase costs, and set a terrible precedent that the State of Alaska will have to endure for the foreseeable future.

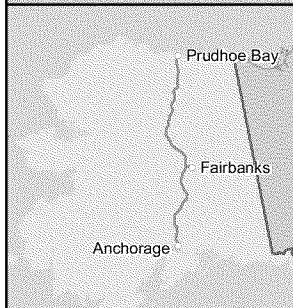
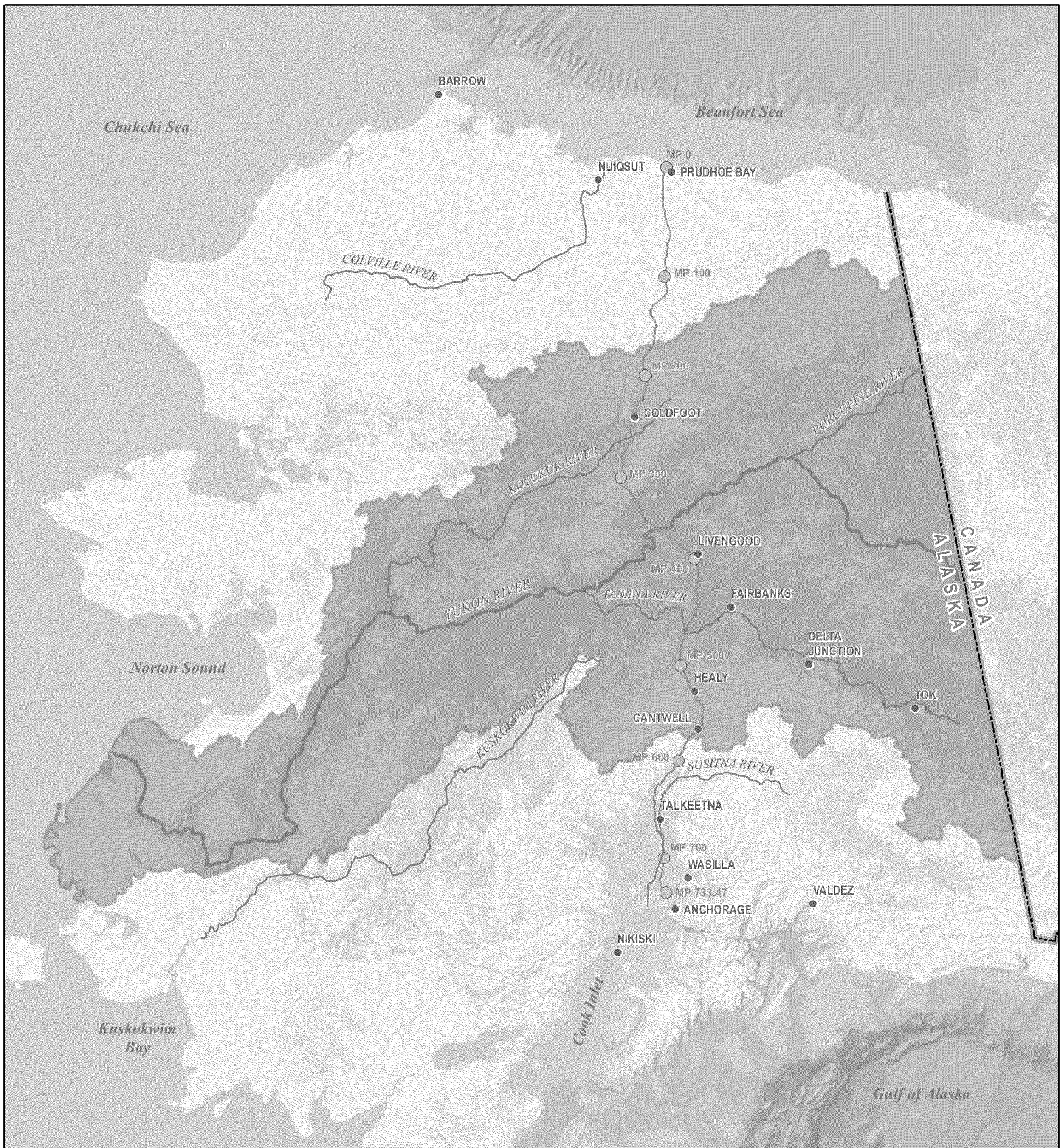
AGDC requests that EPA headquarters intervene with Region 10 to review both the basis for the "may affect" letter on the ASAP project and the potential impacts of designating the Yukon River drainage as an ARNI, and determine whether this decision can be negated.

Sincerely,

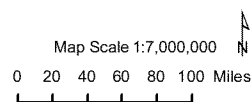


Frank T. Richards, P.E.
Senior Vice President, Program Management

Cc: Senator Lisa Murkowski
Senator Dan Sullivan
Representative Don Young
Commissioner Andy Mack, Alaska Department of Natural Resources
Commissioner Larry Hartig, Alaska Department of Environmental Conservation
John Crowther, Alaska Governor's Washington DC Office



Alaska Stand Alone Pipeline / ASAP
Yukon River Basin



Legend

- ASAP Mainline Mileposts (MP)
- ASAP Mainline Alignment Rev. 6.1
- ~ Major Rivers
- Yukon River Basin

Note: Yukon River Basin area developed from HUC4 Hydrologic Unit Boundaries within the State of Alaska.

ASAP

Alaska's In-State Gas Pipeline
 Alaska Gasline Development Corporation
 3201 C Street, Suite 200 | Anchorage, AK 99503
 P 907.330.6300 | F 907.330.6309 | www.agdc.us

| | |
|-----------|--------------------|
| Doc ID | N/A |
| File Name | Yukon River ARNI |
| Date | September 11, 2017 |
| Sheet | 1 of 1 |

NOTICE - THIS DOCUMENT CONTAINS CONFIDENTIAL AND PROPRIETARY INFORMATION AND SHALL NOT BE DUPLICATED, DISTRIBUTED, DISCLOSED, SHARED OR USED FOR ANY PURPOSE EXCEPT AS MAY BE AUTHORIZED BY THE ALASKA GASLINE DEVELOPMENT CORPORATION IN WRITING.